

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
WDF, INC.,

Plaintiff,

-against-

THE TRAVELERS COMPANIES, INC.,

Defendant.  
-----X

**07 CIV. 4828**

**COMPLAINT  
AND JURY DEMAND**

**FILED  
U.S. DISTRICT COURT  
001 JUN - 6 P 3:15  
S.D. OF N.Y. W.P.**

**JUDGE CONNER**

Plaintiff, WDF, INC, by its attorney, Becky Tung, complaining of THE TRAVELERS COMPANIES, INC., alleges upon knowledge as to itself and its own actions, and upon information and belief as to all other matters as follows:

**Jurisdiction**

1. This action is for a claim against a payment bond that Defendant provided for a public improvement project. This action is properly brought in this Court pursuant to 28 USC 1332.
2. Venue is proper based on the location of Plaintiff's place of business.

**The Parties**

3. WDF, INC., at all relevant times hereinafter, was and still is a for-profit domestic corporation duly organized and existing pursuant to the laws of the State of New

York with its principal place of business at 30 North MacQuesten Parkway, Mt. Vernon, NY 10550.

4. Through a series of mergers and acquisitions, Defendant became known as THE TRAVELERS COMPANIES, INC. (“Travelers”). At all relevant times, Travelers was and still is a foreign corporation with its principal place of business located at 385 Washington Street, Saint Paul, MN 55102.

### **Facts**

5. On or around August 26, 2003, The Losco Group, Inc. (“Losco”) entered into a contract with the State University Construction Fund (“SUCF”) to provide construction services for a project known as “SUNY Purchase, NY, Academic Support Building” (the “Project”).
6. As part of Losco’s contract with the SUCF, Losco is required to provide a payment bond to ensure that Losco’s subcontractors and vendors are paid in the event that Losco fails to pay them.
7. On or around August 26, 2003, Losco secured a payment bond for the Project, bearing Bond Number S40899 (the “Bond”). Travelers provided the Bond. The Bond requires Travelers, as Losco’s surety, to pay Losco’s subcontractors for labor and materials provided for the Project if Losco fails to pay its

subcontractors.

8. On or around December 15, 2003, Losco and WDF, Inc. ("WDF") entered into a subcontract wherein WDF agreed to provide certain construction services to Losco for the Project. Thereafter, Losco agreed to several change orders relating to additional work.
9. Though Losco made several progress payments to WDF, \$1,555,916.67 remains unpaid. Losco has no justifiable reason for not paying WDF these amounts.
10. On several occasions, including by letters dated May 11, 2006 and June 21, 2006, WDF informed Travelers of Losco's failure to pay WDF and demanded payment pursuant to the Bond.
11. Travelers acknowledged its receipt of WDF's demands for payment, and requested that WDF provide certain information to verify that monies are due from Losco to WDF for labor and materials WDF provided for the Project. Despite providing the requested information, Travelers did not pay and continues to fail to pay WDF pursuant to the payment bond.

WHEREFORE, WDF respectfully requests that this Court grant a judgment in the amount of \$1,555,916.67, with interest thereon from the date payment became due, plus costs,

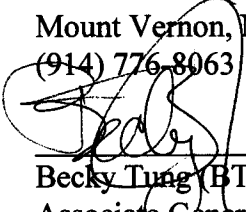
fees, and disbursements incurred by WDF as a result of or relating to this action, including reasonable and adequate attorneys' fees, or such other amount as may be proved at trial, plus and for such other further relief as this Court shall deem just, proper, and equitable.

WDF demands a jury trial on all matters complained of herein.

Dated: Mt. Vernon, New York  
May 30, 2007

Respectfully Submitted,

WDF, INC.  
30 North MacQuesten Parkway  
Mount Vernon, New York 10550  
(914) 776-8063



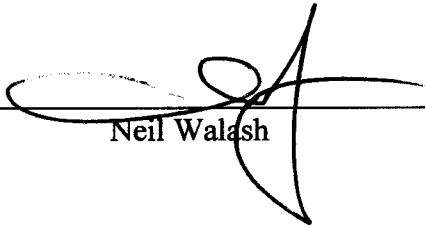
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Becky Tung (BT-5206)  
Associate General Counsel for WDF, Inc.


**CORPORATE VERIFICATION**

STATE OF NEW YORK                    )  
  ) ss.:  
COUNTY OF WESTCHESTER        )

Neil Walsh, being duly sworn, deposes and says that I have read the Complaint dated May 30, 2007, and know the contents thereof, that the same is true to the best of my own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters I believe them to be true, and that I make this verification because WDF, Inc is a corporation and I am its Senior Vice-President.

  
\_\_\_\_\_  
Neil Walsh

Sworn to before me this 30<sup>th</sup>  
day of May, 2007

  
\_\_\_\_\_  
Notary Public

**NIKYA N. WALKER**  
Notary Public, State of New York  
No. 01WA6135860  
Qualified in Westchester County  
Commission Expires October 24, 2009